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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/083,601	05/22/1998	CHRISTOPH E. SCHEURICH	ITL.0045US	4253

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EXAMINER	
AN, SHAWN S	

ART UNIT	PAPER NUMBER
2621	

DATE MAILED: 10/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/083,601	SCHEURICH ET AL.	
	Examiner	Art Unit	
	Shawn S. An	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *39-56* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *39-56* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Remarks

1. Applicant's remarks as filed on 8/14/06 have been carefully considered but are moot in view of the new ground(s) of rejection still incorporating previously cited prior art references with the exception of Gerber et al reference.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 39-41, 43, 45-47, 49, 51-53, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thro et al (6,037,991) in view of Applicant's admitted prior art.

Regarding claims 39, 45, and 51, Thro et al discloses a method, computer storage medium (program instructions), and a computer system comprising:

a processor to execute a program for:

receiving in the program executed by the computer (Fig. 2, 205) a first request generated by an application program executed by the computer for a frame rate and a second request generated by the application program for a resolution (abs.), the first request and the second request associated with communication between a camera (Fig. 1, 116) and the computer (205); and

using the program to:

evaluate a bandwidth available for the communication between the camera and the computer (col. 4, lines 3-23), and

comply with the first request (priority, frame rate) and based on the evaluation of the available bandwidth, selectively not comply with the second request (secondary priority, resolution) (col. 4, lines 3-36).

Thro et al discloses substantially all of the claimed limitations with the exception of *a driver* program.

However, even though Thro's program does not specifically include the driver program, it is conventionally well known for programs associated with such as Windows XP and/or CD games inherently possess or need complementary driver program for the program to work successively. In other words, many programs associated with a computer can't execute operations without the aid of the proper/corresponding driver program.

Furthermore, Applicant's admitted prior art (Fig. 1) teaches the application program (16) may submit specific requests to regulate the manner in which the stream of data is communicated between the camera (12) and the computer (14), and typically, a driver program (13) causes the computer (14) to interact with the camera (12) in an attempt to satisfy these requests (Applicant: page 1, 2nd para.).

Therefore, it would have been considered obvious to a person of ordinary skill in the relevant art employing a computer system as taught by Thro et al to incorporate conventional concept as discussed above and Applicant's admitted prior art so that a driver program evaluates Thro's disclosure of bandwidth available for the communication between the camera and the computer, and comply with the first request, and based on the evaluation of the available bandwidth, selectively not comply with the second request, since many programs associated with a computer can't execute operations without the aid of the proper/corresponding driver program.

Regarding claims 41, 47, and 53, Thro et al discloses submitting communication requests to a bus interface of the computer (205, also inherency emphasized), each request being associated with different bandwidth (inherently, depends on the (amount) data transfer rate) (Fig. 3, 305), and based on the response of the bus interface to the communication requests, determining available bandwidth

(col. 4, lines 3-23).

Regarding claims 43, 49, and 55, Thro et al discloses, wherein non-compliance with the second request (resolution) comprises adjusting the resolution (higher the transmission frame rate, the lower the resolution) different than the second request (Fig. 4, 409; col. 11, lines 6-15).

Regarding claims 40, 46, and 52, Thro et al does not specifically disclose intermittingly checking the available bandwidth and determining whether to comply with the second request (resolution) to accommodate changes in the bandwidth.

However, Thro et al teaches receiving video information intermittingly from each selected video device, (col. 10, lines 47-49), and checking the available bandwidth and determining whether to comply with the second request (resolution) to accommodate changes in the bandwidth (col. 4, lines 3-41). Note: the higher the transmission frame rate, the lower the resolution.

Since Thro et al's program have been discussed with respect to complying with the first request (priority, frame rate) and based on the evaluation of the available bandwidth, selectively not complying with the second request (secondary priority, resolution) and Thro et al teaches receiving video information intermittingly, and checking the available bandwidth and determining whether to comply with the second request (resolution) to accommodate changes in the bandwidth, and also incorporating the conventionally well known driver program as discussed above, it would have been considered obvious for the driver program to intermittingly check the available bandwidth and determine whether to comply with the second request (resolution) to accommodate changes in the bandwidth to ensure that all of the transmitted video data does not exceed the maximum capacity of the bandwidth of the communication resource.

4. Claims 42, 48, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thro et al and Applicant's admitted prior art as applied to claims 39, 45, and 51 above, respectively, and further in view of Garofalakis et al (6,330,609 B1).

Regarding claims 42, 48, and 54, Thro et al discloses progressively using the bus (interface) requests to request more bandwidth (205, inherency emphasized, depends on the (amount) data transfer rate), and submitting the communication requests (Fig. 3, 305; col. 4, lines 3-23).

Thro et al and Applicant's admitted prior art do not specifically disclose submitting the communication requests for *larger* bandwidths until the bus interface denies one of the communication requests.

However, the Examiner takes official notice that it is well known in a communication system (software) to deny the communication requests based on the bandwidth constraints (e.g. system (program) message).

Furthermore, Garofalakis et al teaches admission control system including submitting the communication requests (Fig. 1, 36) for bandwidths until the server (comprises bus interface) (Fig. 1, 10) denies one of the communication requests (col. 2, lines 7-23).

Therefore, it would have been considered quite obvious to a person of ordinary skill in the relevant art employing a computer system as taught by Thro et al to incorporate Garofalakis et al's concepts as discussed above so as to submit the communication requests for larger bandwidths until the bus interface denies one of the communication requests, because there is no need to keep requesting larger bandwidths when an available bandwidth does not exist.

5. Claims 44, 50, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thro et al and Applicant's admitted prior art as applied to claims 39, 45, and 51 above, respectively, and further in view of Masamine et al (JP; 10-070641).

Regarding claims 44, 50, and 56, Thro et al and Applicant's admitted prior art do not specifically disclose adjusting the resolution based at least in part on a determination of a scaling capability of the camera.

However, Masamine et al teaches an image transmission system comprising sending an image with a resolution and a transmission speed in matching (adjusting the resolution) with a display capability of an image receiver (a display monitor) (abs).

In other words, Masamine et al teaches adjusting the resolution based at least in part on a determination of a scaling capability of the display monitor.

Masamine et al further teaches determining scaling capability of the display monitor, whereas Applicant's claimed feature determines scaling capability of the camera.

However, one of skill in the art would readily recognize that scaling capability of the display monitor and the scaling capability of the camera are substantially very similar.

Therefore, it would have been considered quite obvious to a person of ordinary skill in the relevant art employing a computer system as taught by Thro et al to incorporate Masamine et al's concepts as discussed above so as to adjust the resolution based at least in part on a determination of the scaling capability of the camera so as to ensure all of the transmitted video data meets the client's expectations, and does not exceed the maximum capacity of the bandwidth of the communication resource.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to *Shawn S. An* whose telephone number is 571-272-7324.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

8. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

SHAWN AN
PRIMARY EXAMINER

10/19/06